

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION

IN RE: )  
 )  
ACA Real Estate LLC, ) Case No. 08-51055C-11W  
 )  
Debtor. )  
 )

OPINION AND ORDER

This case came before the court on November 6, 2008, for hearing on a motion by GBM & Associates Investments, Inc. for relief from the automatic stay regarding the property located at 190 Charlois Boulevard, Winston-Salem, North Carolina (the "Property").

The basis for the motion is that the Property is single asset real estate and that the Debtor has failed to comply with section 362(d)(3) which requires that relief from the stay of acts against single asset real estate be granted unless, within the latest of (1) 90 days after the order for relief, (2) such longer period as the court determines during the initial 90-day period, or (3) 30 days after the court determines that the debtor is subject to the single asset real estate provisions of section 362(d)(3), the debtor files a reorganization plan that has a reasonable possibility of being confirmed within a reasonable time, or the debtor has commenced monthly payments equal to interest at the then applicable nondefault contract rate of interest on the value of the moving creditor's interest in the property.

Relief under section 362(d)(3) is appropriate only if the real

estate at issue is single asset real estate as defined in section 101(51B). The court determined at the hearing that the Property is single asset real estate and that the Debtor therefor is subject to section 362(d)(3). There having been no previous determination that the Debtor is subject to section 362(d)(3), the deadline for the Debtor to comply with section 362(d)(3) is thirty days after November 6, 2008, which is the latest of the deadlines under section 362(d)(3). Accordingly, the motion for relief from stay must be denied since the time for the Debtor to comply with section 362(d)(3) has not expired and will not expire until thirty days after November 6, 2008. See In re Hope Plantation Group, 393 B.R. 98 (Bankr. D.S.C. 2007); In re Kara Homes, Inc., 363 B.R. 399 (Bankr. D.N.J. 2007).

IT IS SO ORDERED.

This 12th day of November, 2008.



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WILLIAM L. STOCKS  
United States Bankruptcy Judge

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